

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: CHARLOTTE DEAN DAVIS
PATRICK K DAVIS, Debtor(s)**

**Case No. 21-01647
CHAPTER 13**

**EMERGENCY MOTION TO SET ASIDE JUSTICE COURT JUDGMENT AND
REQUEST FOR EMERGENCY HEARING**

COME NOW, Debtors, by and through counsel, and move this Court to Set Aside a Judgement of Removal entered in Scott County Justice Court, and in support thereof, would show the Court as follows:

1. Debtors commenced this case on October 4, 2021 by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. That Debtors are the owners of a mobile home located at 843 Bankers Rd, Morton, MS 39117 and identified in the Mississippi Mobile Home Registry under account 06409.
3. That Debtor's failed to pay property taxes timely and a tax sale was conducted on or about 10/31/2022 in the amount of \$101.00. At that time, Scott County, Mississippi updated the registered owner of the property to Itavius Burks, ("Burks") the buyer at the tax sale.
4. That this property is of substantial value, scheduled at \$20,000.00 and this is the debtor's primary asset.
5. That Burks filed a complaint for removal in Scott County Justice Court ("the Court") and a hearing was held. Debtors appeared at the hearing and notified Burks and the Court that a chapter 13 bankruptcy was pending. Nonetheless, an Order was entered ("Exhibit A") January 25, 2023 ordering the debtor's to vacate the premises by 5pm on February 6, 2023. These actions are stayed by the automatic stay.
6. That Debtors did not make undersigned counsel aware of the Justice Court litigation until January 30, 2023. Undersigned counsel was out of town last week and returned to work, February 2, 2023. Counsel faxed a letter and contacted the Justice Court by telephone and was told to expect a call back on February 3, 2023 regarding whether the Judgement would be set aside. Counsel received a phone call on February 3, 2023 from the Justice Court Clerk indicating that the judgement would not be set aside.
7. That Debtor intends to modify the bankruptcy plan to redeem the taxes.

WHEREFORE, Debtor prays that an emergency hearing be held and an Order be entered setting aside the Order of Removal Docket 1064 Page 74 of the Scott County Justice Court.

Respectfully submitted

/s/ Thomas C. Rollins, Jr.

Thomas C. Rollins, Jr. (MS Bar No. 103469)

Of Counsel:

Thomas C. Rollins, Jr.
The Rollins Law Firm, PLLC
P.O Box 13767
Jackson, MS 39236
601-500-5533

CERTIFICATE OF SERVICE

I, Thomas C. Rollins, Jr., do hereby certify that a true and correct copy of the above Motion to Set Aside Justice Court Judgment and for Emergency Hearing was forwarded on February 3, 2023, to the creditor, case trustee and U.S. Trustee.

By First Class U.S. Mail, Postage Prepaid:

Itavius Burks
54 KERISH ROAD
FOREST, MS 39074

Scott County Justice Court
P.O. Box 371
Forest, MS 39074

/s/ Thomas C. Rollins, Jr.

Thomas C. Rollins, Jr.

CERTIFICATE OF SERVICE

I, Thomas C. Rollins, Jr., do hereby certify that a true and correct copy of the above and foregoing Notice and Motion were forwarded on February 3, 2023, to:

By First Class U.S. Mail, Postage Prepaid:

Itavius Burks
54 KERISH ROAD
FOREST, MS 39074

Scott County Justice Court
P.O. Box 371
Forest, MS 39074

By Electronic CM/ECF Notice:

Chapter 13 Case Trustee

U.S. Trustee

/s/ Thomas C. Rollins, Jr.
Thomas C. Rollins, Jr.